

REMARKS

Claims 1-10 are pending in this application after this Amendment. Claims 1-7 are independent. In light of the amendments and remarks made herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1-6 under 35 U.S.C. § 102(e) as being anticipated by *Allport* (USP 6,097,441). Applicants respectfully traverse this rejection.

By this amendment, Applicant has amended claims 1-6 to more appropriately recite the present invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejection, but merely to timely advance prosecution of the present application.

Examiner Interview

Applicants wish to thank the Examiner for the interview conducted on March 11, 2004. It is respectfully submitted that the new claims and remarks included herein are made further to the discussions had during the interview.

Prior Art Rejections

In support of the outstanding rejections, the Examiner relies on the *Allport* reference to teach or suggest all of the claimed elements. The disclosure in *Allport* is directed to a system for dual display interaction with integrated television and internet content. The system includes a hand-held portable remote control

with an integrated video display capable of displaying full motion video in combination with hardware and software that enables interaction between the TV or other primary display screen and the hand-held display. The hardware may include an integrated TV tuner and/or various display communication ports or a physically separate base station with a TV tuner and/or various data communication ports. (Col. 3, lines 52-59).

The remote control includes the ability to display text-based status information on the TV display during attribute adjustment (volume, contrast, color, tint, brightness, sound, etc.) or for closed captioned messages such as sports scores, stock quotes, etc. The remote control display may be used to display that information and therefore leave the primary viewing screen free of unnecessary clutter. (Col. 3, line 65 - col. 4, line 5).

Allport in the disclosure at col. 1, lines 6-14 incorporates by reference the entire disclosure of co-pending application Serial No. 09/001,873 (USP 6,104,334, hereinafter "the '334 patent"). The Examiner relies on the '334 patent to teach an operating state and a starting state of the information processing device being displayed on the small display device. The disclosure set forth in the '334 patent is directed to a portable internet-enabled controller and information browser for consumer devices. A "welcome" screen appears on the display of the remote control when the remote control is first turned on and after the proper log-in

process. There is further an option for the user to access his scheduling feature of the remote which allows the consumer to monitor and control the current status of the devices, the future tasks scheduled to be performed by the devices, and the prior history of the tasks performed by the devices in the control of the remote. (Col. 10, lines 18-26 of the '334 patent). The remote control further includes an area on the display which is used to display a description of the current program being watched on the primary display such as the TV. The information may include the source of the picture entertainment, the station or channel, the name of the program, and the start and end time of the picture entertainment. (Col. 12, lines 45-55). The remote control further includes an on/off toggle switch 90 connected to a power source by a battery terminal or a AC circuit. (Col. 11, lines 6-8).

It is respectfully submitted that the disclosure set forth in the Allport '441 patent describes a different invention that that set forth in the Allport '334 patent. Thus, effectively, the Examiner is relying upon two references in order to maintain his assertion of anticipation under 35 U.S.C. § 102. It is respectfully submitted that this practice is improper. As noted in MPEP §2131.01, only one reference should be used in a 35 U.S.C. § 102 rejection, except 1) to prove the primary reference has enabling disclosure; 2) explain the meaning of a term; or 3) to show a characteristic in the reference is inherent. If the Examiner is

relying upon two separate references to teach or suggest a claimed invention, it is respectfully submitted that the proper section to reject these claims is 35 U.S.C. § 103 where the Examiner must satisfy the requirements of obviousness as set forth in *Graham v. John Deere*. As such, it is respectfully requested that the outstanding rejection be withdrawn.

Further, it is respectfully submitted that the *Allport* reference fails to anticipate the present invention. While the Examiner relies on base station 75 to teach the information processing device to determine whether an information processing function or a television function is to be performed, there is no teaching or suggestion that the base station 75, based upon the determination, performs the information processing function or the television function, or both the information processing function and the television function. As noted by the Examiner, the remote control is able to control the TV 80 and various consumer devices and appliances, which respond to the remote's commands (Office Action, page 3, line 10). Thus, *Allport* fails to teach all of the elements as recited in claims 1-6, and thus, fails to anticipate the present invention. As such, it is respectfully requested that the outstanding rejection be withdrawn.

By this Amendment, Applicants have added new claims 7-10 for consideration by the Examiner. It is respectfully submitted that

the Allport reference fails to teach or suggest the invention as recited in these claims.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Applicants respectfully petition for a one (1) month extension of time pursuant to 37 C.F.R. §§ 1.17 and 1.136(a). A check in the amount of \$110.00 in payment of the extension of time fee is attached.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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